

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/509,644

Conf. No.: 4292

Inventor: Steven Lobreght

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Examiner: Said Broome

Docket No.: PHNL020249US (PHC-10-6105)

Customer No.: 38107

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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REPLY BRIEF

Dear Sir:

In response to the Supplemental Examiner's Answer mailed April 13, 2009, please reconsider the above-identified application in view of the following comments:

Remarks/Arguments begin on page 2 of this paper.

REMARKS/ARGUMENTS

With respect to **claims 1 and 13**, the Examiner's Supplemental Answer asserts that the view directions taught by Kaji in Figure 6 are equivalent to the essentially parallel view directions recited in the subject claims, because whether or not the view directions potentially cross at infinity, the illustrated view directions still originate from each eye essentially in a parallel direction. Appellant respectfully disagrees. The view directions illustrated in Kaji in Figure 6 originate from each eye from a point, a point does not have direction and is not a view direction. The view direction for each eye is defined by the line of sight direction from the point to the object. For example, this is illustrated in Figure 6 of Kaji where the line of sight direction 31 originates from a point on the left eye 30 and is directed to a point at infinity. Hence, the view directions of each eye do not originate from each eye essentially in a parallel direction.

Moreover, as set forth in the Reply Brief, the description of Figure 6 of Kaji teaches away from using parallel lines when generating images of objects in close proximity. In support of this teaching, Kaji states at col. 1, lines 50-52 that when human eyes see an object at close range, the lines of sight move inward according to the distance of the object. As a consequence, Kaji teaches modifying the line of sight directions for the right and left eyes according to the distance from the view point to the object (col. 2, lines 6-9) (and, thus, the lines of sight are not parallel) when generating an image to provide a natural appearance (col. 2, lines 15-18). Shimizu teaches a method of constructing an image of an object (Abstract) in close proximity using non-parallel view lines (Figure 11) where the image is a three dimensional image representative of the inside of an organ observed with an endoscope (col. 1, lines 26-28).

Since Kaji and Shimizu teach away from using parallel view lines for images of objects in close proximity, these references teach away from modifying Shimizu to use parallel view lines for images of objects in close proximity, and the purported combination is improper. MPEP §2145 (X) (D) *citing In re Grasselli*, 713 F.2d 731,

(Fed. Cir. 1983) (stating that it is improper to combine references where the references teach away from their combination). Hence, it would not have been obvious to one of ordinary skill in the relevant art at the time of the invention to modify Shimizu in view of Kaji to use parallel view lines as recited in the claims.

The Examiner's Supplemental Answer further asserts that claims 1 and 13 do not recite any subject matter related to the proximity or distance of the user from the object, and, therefore, proximity would have not impeded or prevented one of ordinary skill in the art from modifying the view directions of left and right eye images. However, claims 1 and 13 inherently include aspects related to the proximity or distance of the user from the object. With more specificity, persons of ordinary skill in the art would recognize that claims 1 and 13 include aspects related to the proximity or distance of the user from the object because the subject claims recite in part a method of visualizing an internal hollow organ of a subject based on a volumetric scan thereof including a step of reconstructing a three-dimensional image of the inside of the hollow organ. The specification includes non-limiting examples of suitable internal hollow organs including a blood vessel and the colon (virtual endoscopy)(see p. 4, line 33 to p. 5, line 3). Such internal surfaces as well as the internal surfaces of other hollow organs within a body are surfaces that are viewed at close proximity, and not at infinity as illustrated in Figure 6 in Kaji.

In addition, since Shimizu teaches a method of constructing an image of an object in close proximity and proximity has an affect on the image, one of ordinary skill in the art at the time of the invention would have considered proximity when modifying Shimizu in view of Kaji. To establish *prima facie* obviousness there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. MPEP §2143. Shimizu and Kaji teach away from the purported combination, and the teaching or suggestion to make the claimed combination

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must be found in the prior art, not in applicant's disclosure. MPEP §2143.03 *citing In re Vaeck*, 947 F.2d 488, (Fed. Cir. 1991).

In view of the above, reversal of the rejection to claims 1 and 13, and claims 2-6, 8-12 and 14-20, which depend therefrom, is respectfully requested.

As to those matters not specifically addressed in this paper, the Board's attention is respectfully directed to Appellants' argumentation already of record in this case, and particularly to the Appeal Brief and the Reply Brief dated July 2, 2007.

Conclusion

In view of the foregoing, it is submitted that the pending claims distinguish patentably and non-obviously over the prior art of record. Reversal of the outstanding rejections is respectfully requested.

Respectfully submitted,

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